

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

UNITED STATES OF AMERICA	:	CRIMINAL NO.: 1:14cr0001-WLS
	:	
v.	:	Counts 1-30, 35-47: 18 U.S.C. §§ 1343,
	:	1346 (Money, Property, and Honest
CHRISTOPHER WHITMAN,	:	Services Wire Fraud)
SHAWN MCCARTY, and	:	
BRADFORD NEWELL,	:	Counts 31-34, 48-50: 18 U.S.C. § 201
	:	(Bribery)
	:	
Defendants.	:	Count 51: 18 U.S.C. § 641
	:	(Theft of Government Property)
	:	
	:	Counts 52, 54-57: 18 U.S.C. §§ 1512(c)
	:	(Obstruction of an Official Proceeding)
	:	
	:	Count 53: 18 U.S.C. § 1519
	:	(Obstruction of an Official Proceeding)
	:	
	:	Forfeiture Notice
	:	

PROPOSED FORFEITURE JURY INSTRUCTIONS

COMES NOW the United States of America, by and through its undersigned attorneys, and requests that, should defendant Christopher Whitman be convicted of any of the violations alleged in Counts One (1) through Fifty-Seven (57) of the First Superseding Indictment, and should the Defendant elect to retain the jury for a determination of the forfeiture of specific property pursuant to Fed. R. Crim. P. 32.2(b)(5), the following jury instructions be given during the Court's charge at the separate Forfeiture hearing following the conviction.

Respectfully submitted,

M. KENDALL DAY, ACTING CHIEF
Asset Forfeiture & Money
Laundering Section

/s/ Darrin L. McCullough

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Forfeiture Proceedings Jury Charge
(To be given before supplemental evidentiary
proceedings or supplemental arguments of counsel)

Members of The Jury: Your verdict in this case doesn't complete your jury service as it would in most cases because there is another matter you must now consider.

You must decide whether the Defendant, Christopher Whitman, should forfeit certain property to the United States as a part of the penalty for the crime(s) charged in Count(s) _____ of the First Superseding Indictment.

In a portion of the First Superseding Indictment not previously discussed or disclosed to you, it is alleged that the Defendant, Christopher Whitman, obtained certain property from committing the offense(s) charged in Count(s) _____. In view of your verdict finding the Defendant, Christopher Whitman, guilty of that offense (those offenses), you must also decide whether the property should be forfeited to the United States.

To "forfeit" a thing is to be divested or deprived of the ownership of it as a part of the punishment allowed by the law for certain criminal offenses.

To decide whether property should be forfeited, you should consider all the evidence you have already heard plus any additional evidence that will be presented to you after these instructions.

A special verdict form which mirrors the forfeiture allegations of the First Superseding Indictment (or "a copy of the Forfeiture Notice contained in the First Superseding Indictment")

will be given to you to consider during your supplemental deliberations. It describes in particular the property allegedly subject to forfeiture to the United States.

The property for which forfeiture is sought is generally described as follows: 106 parcels of real property; rental income generated by 69 of those properties; 14 vehicles, boats and trailers; a mortgage held by the defendant on a parcel of real property; a quantity of rare coins; and approximately 216 gold bullion bars and coins of various denominations.

To be entitled to the forfeiture of any of those items, the Government must prove by a preponderance of the evidence that the property sought to be forfeited, be it real or personal, constitutes or is derived from proceeds traceable to the offense (the offenses) charged in Count(s) _____ of the First Superseding Indictment. **(If convicted of any number of fraud counts:** If you find that the fraud of which you have convicted the Defendant constituted an ongoing or continuing scheme, the Defendant is liable for the full amount he obtained or derived from the scheme).

The term “proceeds” means property that a person obtained or retained as a consequence of the commission of an offense. Put another way, “proceeds” means the property that a person would not have obtained or retained *but for* the commission of the offense.

A “preponderance of the evidence” simply means an amount of evidence that is enough to persuade you that a claim or contention is more likely true than not true.

To be “derived” from something means that the property under consideration must have been formed or developed out of the original source so as to be directly descended from that

source. To be “traceable” to something means that the property under consideration must have followed an ascertainable course or trail in successive stages of development or progress from the original source.

While deliberating concerning the issue of forfeiture you must not reexamine your previous determination regarding the Defendant’s guilt. But all the instructions previously given to you concerning your consideration of the evidence, the credibility of the witnesses, your duty to deliberate together, your duty to base your verdict solely on the evidence without prejudice, bias, or sympathy, and the necessity of a unanimous verdict, will continue to apply during these supplemental deliberations.

CERTIFICATE OF SERVICE

I hereby certify that on 1 March 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all parties.

Respectfully submitted,

M. KENDALL DAY, ACTING CHIEF
Asset Forfeiture & Money
Laundering Section

/s/ Darrin L. McCullough
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